

timely. The Commissioner is authorized to charge the fee for the extension to Deposit Account No. 07-0862.

Reconsideration of the application in view of the remarks herein, is respectfully requested.

Claim 12 is canceled without prejudice to Applicants right to pursue this claim in a divisional application.

The Examiner rejected claims 1, 3, 4 and 6-11 under 35 USC § 112, second paragraph, stating that this rejection had not been addressed. The Examiner also stated that "if Applicant's contention is that a lubricant is non-blooming when the metallized article is subject to aging at temperature of 150-185 Centigrade, then claim 2 fails to further limit claim 1." (Office Action Page 2). This argument is not understood, since in the last amendment, Applicants amended claim 1 to include the recitation of claim 2, and **canceled claim 2** (See also Page 3, final paragraph). Withdrawal of this rejection or a more detailed explanation is therefor requested.

On the merits, the Examiner rejected claims 1, 3, 4, and 6-11 under 35 USC § 103 as obvious over the combination of Breitenfellner et al in view of Cohen. As previously noted, Breitenfellner discusses the production of a light-reflecting article, such as a headlight. There is no overlap between the composition of Breitenfellner and the composition recited in the present claims. Thus, the Examiner cites Cohen for a teaching of a similar composition, and says that use of this composition in place of the terephthalate composition of Breitenfellner would have been obvious.

The Examiner states that the unexpected fact that the articles as claimed do not suffer from the defect of blooming is of no moment, because "blooming" is a property of the resin composition, not the laminate (office action, Page 4). No support is offered for this statement, although such support either in the form of a reference or a declaration stating the Examiner's expertise is plainly required since the statement is contrary to the present application. For example, as pointed out in the specification on page 2, the "non-blooming release agent does not migrate through the **metallized layer** so that deleterious rainbow and haze effects are avoided." This is a benefit to the metallized article that arises from the non-blooming nature of the polymer release agent/lubricant. Furthermore, claim 1 states that the absence of blooming is a property which is observed when the **metallized molded article**, not just the resin layer is heated.

In this context, Applicants further point out that while blooming in a traditional sense is a concern for the base resin, in applications such as metallized head lamp surfaces, lack of blooming in the base resin, or even immediately after metallization is not sufficient for good product performance. In particular, it can be observed that well-known release agents such as PETS that yield products with good surface quality both after molding and after metallization show migration to the surface and through the metallized layer when subjected to heat aging at temperatures of 150° C and above. Nothing in the art suggests that a release agent with olefinic monomeric units, such as polyethylene, would have different results and superior product performance.

The Examiner further argues that Cohen necessarily exhibits "non-blooming" since it comprises the same components as in the claims. There is no suggestion in Cohen that blooming was a matter of concern in the application of the Cohen patent. Absent an express observation that blooming did not occur, and a recognition that blooming was detrimental in metal coated articles, neither of which is found in the cited art, the assertion that the properties of the claimed articles are unsurprising is purely based on improper hindsight using the knowledge of the present invention against its own inventors.

The Examiner also argues that "one of ordinary skill in the art would expect a higher molecular weight release agent/lubricant to exhibit less blooming than a low molecular weight release agent/lubricant such as those utilized in the comparative examples. Low molecular weight components are known to migrate toward the surface of a molded product." (Office Action, Page 4). Again, this argument is made without support. As observed in *In re Ahlert*,

Assertions of technical facts in areas of esoteric technology must always be supported by citation to some reference work recognized as standard in the pertinent art and the appellant given, in the Patent Office, the opportunity to challenge the correctness of the assertion or the notoriety or repute of the cited reference. Cf. *In re Cofer*, 53 CCPA 830, 354 F.2d 664, 148 USPQ 268 (1966), *In re Borst*, 52 CCPA 1398, 345 F.2d 851, 145 USPQ 554 (1965). Allegations concerning specific "knowledge" of the prior art, which might be peculiar to a particular art should also be supported and the appellant similarly given the opportunity to make a challenge. See *In re Spormann*, 53 CCPA 1375, 363 F.2d 444, 150 USPQ 449 (1966).

165 USPQ 418, 421 (CCPA 1970). The Examiner's assertion in this case must therefore be supported by citation of a reference work so that the basis for the Examiner's assertions of

obviousness can be evaluated and challenged in context. This is particularly so, since the Examiner is relying on these undisclosed teachings as a basis for an assertion of what would be expected. Applicants further note that the issue here is not whether migration to the surface of a resin is known to depend on molecular weight as the Examiner has stated, but whether the person skilled in art would recognize that this has anything to do with blooming in a metallized article. The Examiner must show this to be the case, without reliance on the instant invention.

The Examiner also rejected claims 1, 3, 4 and 6-11 under 35 USC § 103 as obvious over the combination of Breitenfellner and Weaver. This rejection suffers from the same defect discussed above. Whatever the resin layer of Weaver may be, and however similar it may be to that of the resin component of the claimed invention, Weaver does not mention metallization and therefore cannot suggest properties in a metallized article. Thus, this rejection should also be withdrawn for the same reasons that the combination with Cohen should be withdrawn.

Applicants further submit that they are not improperly arguing the references individually as the Examiner states. The teachings of each reference are individual however, and the proper consideration is to look at these teachings *in toto* to see what they fairly, and without hindsight would suggest to a person skilled in the art. What Applicants are arguing is that, even accepting the Examiner's careful selection of references to combine based on the teaching of the application, the references simply do not suggest that the combination would solve the problem of blooming encountered with other polycarbonate base materials.

The Examiner also maintained the rejection of claims 1, 3, 4, 6, 7 and 9-1111 as obvious over the combination of Polyplastics (JP 2000035509A) in view of Cohen or Weaver. Polyplastics is essentially cumulative with Breitenfellner, to the extent that it merely discloses a metallized polybutylene terephthalate article. The combination of Polyplastics with Cohen or Weaver is therefore no different from an analytical perspective than the combination of Breitenfellner with Cohen or Weaver. Neither provides a suggestion of the claimed invention, including all of its properties. Thus, these rejections should be withdrawn.

For the foregoing reasons, Applicants submit that all claims of the present application are in form for allowance. Favorable reconsideration is respectfully urged.

Respectfully Submitted,



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